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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,476	03/10/2004	Joshua David Banko	4860.P3250	7410
8791 7590 12/22/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
GARCIA, CARLOS E				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,476

**Applicant(s)**

BANKO, JOSHUA DAVID

**Examiner**

CARLOS E. GARCIA

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/10/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/20/2008 has been entered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: disk guide 341. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claim 14 is objected to because of the following informalities:

The claim includes limitation: "function bezel" which should be --functional bezel--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9, 11, 19-21, 23, and 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 9 and 11 recite "the cosmetic screen" in lines 2 and 1, respectively. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 19 recites "the first plurality of attachment features" and "the second plurality of attachment features" in lines 1-3. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 20 recites "the disk guide" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 21 recites "the disk guide" in lines 1-22. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 23 recites "the second opening" and "the first opening" in lines 1-2. There is insufficient antecedent basis for these limitations in the claim.

11. Claims 33 and 34 recite "the disk guide" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Double Patenting***

12. Applicant is advised that should claims 13 and 30 be found allowable, claims 14 and 31 will be objected to under 37 CFR 1.75 as being substantial duplicates thereof, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-2, 4-6, 12, 25-26, 29-32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapalski et al (US 2004/0042623; hereinafter Zapalski).

Re claims 1, 12 and 25: Zapalski discloses a computer system 24 (as shown in Fig.2) comprising: an enclosure 26; an optical drive coupled to the enclosure (see para.0019-0022; optical drives are necessary for reading optical discs such as DVD/CD/MP3 formats), a functional bezel 40 having a first opening 50 to

receive an optical disk and a first plurality of attachment features 60; and a cosmetic bezel 42 having a second opening 66 to receive the optical disk and second plurality of attachment features 58, the cosmetic bezel rigidly coupled to the functional bezel through a coupling of the first and second attachment features (as shown in Fig.5), wherein the first opening and second opening are in alignment (in Fig.5 for example); wherein the cosmetic bezel is rigidly coupled to the functional bezel to form a bezel assembly (such as by screwing or bolting of the panel 42 to panel 40 in para.0026). Zapalski also discloses the panel 40 can be snap fitted to housing 26 (see para.0021). Furthermore, Zapalski discloses the functional bezel provides structural rigidity for the optical drive (since the panel 40 is securely attached to the optical housing 26, it must also provide rigidity for the optical drive enclosed within housing 26 as required for proper operation), as recited in claims 2 and 29.

Zapalski discloses the claimed invention except for the concept of an integrated bezel assembly and that the integrated bezel assembly is arranged such that the removal of the cosmetic bezel will also remove the functional bezel, as recited in claims 1, 12 and 25.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have integrated the panels 42 and 40 of Zapalski together to form one piece during assembly such as by bolting or screwing as described above for which the removal of panel 42 of the integrated assembly would also remove panel 40 due to the snap fit fastening feature described by

Zapalski, since it has been held that forming in one piece an article, which has formerly been formed in two pieces and put together, involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Referring to claims 1, 12 and 25, no patentable weight can be ascribed to the method of manufacturing limitation(s) (i.e., "the integrated bezel assembly coupled to the optical drive and the enclosure after the cosmetic bezel is rigidly coupled to the functional bezel to form the integrated bezel assembly"), since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Re claims 4-5 and 30-31: Zapalski further discloses the functional bezel includes a plurality of mounting points (defined by elements 47-48 in Fig.5) for mounting the functional bezel to the optical drive and for mounting the functional bezel to an enclosure that houses the slot loading optical drive (as discussed above; the optical drive with a slot for loading of an optical disk).

Re claims 6 and 32: Zapalski further discloses the first plurality of attachment features of the functional bezel matches the second plurality of attachment features (as discussed above regarding claims 1, 12 and 25).

Re claims 10 and 35: Zapalski discloses the claimed invention except for the second opening in the cosmetic bezel is larger than the first opening in the functional bezel to facilitate injection or ejection of the optical disk.

It would have been an obvious matter of design choice to modify the slot opening size of one of the panels, because a larger slot through which the disk is first inserted and a smaller second would further guide the disk due to the decrease in slot sizes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Re claim 26: Zapalski further discloses the optical drive is rigidly mounted to the enclosure (as shown in Fig.2-3; the optical drive mentioned must be securely fixed inside the housing 26 so that proper loading/unloading operations can be performed for the system).



Re claim 36: Zapalski further discloses the functional bezel facilitates slot loading of the optical disk into the optical drive (as shown in Fig.4; the opening in panel 42 allows the disk to be loaded through the slot opening).

15. Claims 3, 7-9, 11, 13-24, 27-28 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapalski in view of Kan-o (US 6,910,217). The teachings of Zapalski have been discussed previously.

However, Zapalski fails to disclose or fairly suggest a cosmetic screen disposed between the functional bezel and the cosmetic bezel attached to the cosmetic bezel, as recited in claims 3, 13-14 and 27; or a disk guide wherein the disk guide facilitates proper attachment of the optical disk into the optical drive, as recited in claims 7, 20 and 33; or wherein the disk guide includes a ramp feature to point the optical disk down into the optical drive during injection and to point the optical disk up during ejection, as recited in claims 8, 21 and 34; or that the cosmetic bezel includes a recess configured to receive the cosmetic screen, as recited in claims 9, 22 and 28; or that the cosmetic screen performs at least one of minimizing contaminants into the optical disk drive and wiping the optical disk as the optical disk is being inserted into the optical drive, as recited in claims 11 and 24.

Kan-o teaches an apparatus (as shown in Fig.6) comprising of a cosmetic bezel 14 having an opening 3 to receive the optical disk 1 with a felt 4 attached to the cosmetic bezel (as shown in Fig.13). Furthermore, Kan-o shows a small

recess in element 24 to receive the felt 4 (see col.5, lines 41-48). Additionally, Kano-o teaches the use of a ramp-like patch 10 in Fig.2, which is used within the optical drive apparatus shown in Fig.4 (as opposed to the conventional apparatus of Fig.5) that facilitates the loading/unloading of an optical disk by preventing contact of disk 1 with the loading slot 3. The patch 10 is shaped in a manner capable of lowering the disk edge during loading and lifting of the disk edge during unloading. This patch further prevents scratching of the disk during such operation (see Fig.4; col.5, lines 34-59; col.6, lines 22-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the felt element as taught by Kan-o to attach into the structure as disclosed by Zapalski in order to prevent contaminants from entering the enclosure housing the optical disk drive and further wiping the disk as it is loaded into the system and adopting the patch member from Kan-o as discussed above, so that the optical disk is not scratched during the loading/unloading operation due to contact between the disk edge and/or surface and the harder bezel surface.

Re claim 15: Zapalski further discloses the functional bezel has a first opening to receive the optical disk and a first plurality of attachment features, the functional bezel coupled to the optical drive, and the cosmetic bezel has a second opening to receive the optical disk and second plurality of attachment features, wherein

the first opening and the second opening are in attachment to form the slot (as shown in Fig.4-5 and as discussed above regarding claim 12).

Re claim 16: Zapalski further discloses the functional bezel provides structural rigidity for the optical drive (since the panel 40 is securely attached to the optical housing 26, it must also provide rigidity for the optical drive enclosed within housing 26 as required for proper operation).

Re claims 17-18: Zapalski further discloses the functional bezel includes a plurality of mounting points (defined by elements 47-48 in Fig.5) for mounting the functional bezel to the optical drive and for mounting the functional bezel to an enclosure that houses the slot loading optical drive (as discussed above; the optical drive with a slot for loading of an optical disk).

Re claim 19: Zapalski further discloses the first plurality of attachment features of the functional bezel matches the second plurality of attachment features (as discussed above regarding claims 1, 12 and 25).

Re claim 23: Zapalski discloses the claimed invention except for the second opening in the cosmetic bezel is larger than the first opening in the functional bezel to facilitate injection or ejection of the optical disk.

It would have been an obvious matter of design choice to modify the slot opening size of one of the panels, because a larger slot through which the disk is first inserted and a smaller second would further guide the disk due to the decrease in slot sizes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

### ***Response to Arguments***

16. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

17. The prior art made of record in PTO-892 Form and not relied upon is considered pertinent to applicant's disclosure. Kobayashi discloses a CD player preventing erroneous insertion and felt members to wipe the disc to prevent contamination; Okabe discloses a optical drive unit with two covers; and Nakajima discloses a cartridge mechanism with door closing assembly.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos E. Garcia whose telephone number is 571-270-1354. The examiner can normally be reached on 8:30 am to 5:00 pm, Monday thru Thursday and 8:30 to 4:00 pm, Fridays. If attempts to reach the examiner by telephone

are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Craig A. Renner/  
Primary Examiner, Art Unit 2627

/Carlos E Garcia/  
Examiner, Art Unit 2627

12/20/2008